

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephen DiFiore	Team: Squad #05	CCRB Case #: 202203990	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 06/16/2022 2:00 AM	Location of Incident: 848 Washington Street	18 Mo. SOL 12/16/2023	Precinct: 06		
Date/Time CV Reported Fri, 06/17/2022 8:51 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 06/17/2022 8:51 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Joshua Lawrence	08597	966662	006 PCT
2. LT Brandon Taybron	00000	948514	006 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Christopher Witt	05922	962171	006 PCT
2. PO Patricia Ramos	24383	967280	006 PCT
3. PO Marek Stopczyk	17171	968829	006 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Brandon Taybron	Abuse: Lieutenant Brandon Taybron detained § 87(2)(b)	
B.PO Joshua Lawrence	Abuse: Police Officer Joshua Lawrence threatened to remove § 87(2)(b) to the hospital.	
C.PO Joshua Lawrence	Abuse: Police Officer Joshua Lawrence searched § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		

Case Summary

On June 17, 2022, § 87(2)(b) filed this complaint by leaving a message on the CCRB call processing system.

On June 16, 2022, at approximately 2 a.m., § 87(2)(b) was denied entry to the Le Bain nightclub located at 848 Washington Street in Manhattan. PO Joshua Lawrence, PO Christopher Witt, Lt. Brandon Taybron, PO Patricia Ramos, and PO Marek Stopczyk responded. Lt. Taybron forcibly detained § 87(2)(b) and called EMS personnel to the location (**Allegation A: Abuse of Authority, § 87(2)(g)** PO Lawrence told § 87(2)(b) “You can’t care for yourself, so now you’re gonna go to the hospital” (**Allegation B: Abuse of Authority, § 87(2)(g)** While waiting for EMS to arrive, PO Lawrence removed § 87(2)(b) wallet from his bag and examined his ID (**Allegation C: Abuse of Authority, § 87(2)(g)** The incident did not result in any arrests or summonses, and § 87(2)(b) did not go to the hospital after EMS personnel declined to take him. § 87(2)(g), § 87(4-b)

The investigation obtained BWC for this incident (Board Review 01, summarized in Board Review 02-03).

Findings and Recommendations

Allegation (A) Abuse of Authority: Lieutenant Brandon Taybron detained § 87(2)(b)
Allegation (B) Abuse of Authority: Police Officer Joshua Lawrence threatened to remove § 87(2)(b) to the hospital.
Allegation (C) Abuse of Authority: Police Officer Joshua Lawrence searched § 87(2)(b)

The nightclub’s security guard, § 87(2)(b) did not allow § 87(2)(b) into the club because he was intoxicated. § 87(2)(b) nonetheless refused to leave and held up the line of other patrons who were on the sidewalk waiting to get inside. Ultimately, both § 87(2)(b) and an anonymous patron who was waiting in line called 911 to report § 87(2)(b) behavior (Board Review 04, summarized in Board Review 05). The anonymous caller initially stated that § 87(2)(b) was “fighting” with others and was “hitting everybody,” but when asked how many people were in the club, the caller says, “Just one.” The event printout for this job lists both calls and described § 87(2)(b) reporting that § 87(2)(b) is intoxicated and refusing to leave (Board Review 06, page 2). For the anonymous call, the event only says that the caller reported that the incident involves a male and has unknown weapons or injuries. No further details are listed for this event before EMS is requested.

The investigation reached out to § 87(2)(b) who said that he had no recollection of this incident, noting that people get denied entry to the club all the time (Board Review 07). The investigation also reached out to the anonymous 911 caller, who declined to provide his name or provide a full statement (Board Review 08). He did, however, confirm that he never spoke to any police officers when they arrived and did not see any interaction with the officers.

It is undisputed that Lt. Taybron ordered officers to restrain § 87(2)(b) until EMS arrived and that PO Lawrence removed § 87(2)(b) ID from his shoulder bag once he was in handcuffs.

§ 87(2)(b) testified that he did not threaten anyone who was present when the officers were on scene (Board Review 09). He acknowledged being an arm’s length from the officers when speaking with them but denied that he did anything with his body when he spoke with them. After speaking with the officers, he re-approached the entrance to the club and told security staff that he was not going to allow anyone in. At this point, PO Lawrence handcuffed § 87(2)(b) and walked him away from the club’s entrance before removing § 87(2)(b) wallet from his shoulder bag a few moments later.

The first 12 seconds of Lt. Taybron's BWC video show a brief part of the conversation with § 87(2)(b) (Board Review 10). Officers are standing on the opposite sidewalk from the entrance to the nightclub. § 87(2)(b) is speaking with them before walking back across the street to the entrance to the club. There does not appear to be any traffic driving down the street at the time. The footage also captures Lt. Taybron speaking to EMS when they arrive (at approximately 20:01). Lt. Taybron says that § 87(2)(b) is intoxicated and would not leave after staff would not let him in. He also says that § 87(2)(b) was yelling and screaming while running in the street, and that § 87(2)(b) was "acting up, acting a fool." At 23:35, an EMT asks Lt. Taybron if there was anything else indicating that § 87(2)(b) was intoxicated, and Lt. Taybron said that he did not see § 87(2)(b) stumbling. The EMT tells Lt. Taybron that he will not be transporting § 87(2)(b) to the hospital.

PO Lawrence's BWC captures the entirety of § 87(2)(b) physical actions with PO Lawrence before PO Lawrence handcuffs him (Board Review 11, from 00:38 to 02:26). § 87(2)(b) occasionally waves his hands and points his fingers at the officers while talking but does not intentionally wave his hands within inches of PO Lawrence's face. He also occasionally walks away from PO Lawrence as they speak with him. After 02:26, when PO Lawrence handcuffs § 87(2)(b) he says, "Yeah, and you can't care for yourself, so now you're gonna go to the hospital." At 07:58, § 87(2)(b) says, "Yeah, so I'm going home." PO Lawrence says, "After the hospital."

Lt. Taybron testified that he was only at the scene to review officers' memo books but had known about the two 911 calls made prior to his arrival. He knew that the 911 calls were for an intoxicated man refusing to leave the location. Lt. Taybron confirmed in his testimony that he made the decision to request an ambulance to the location so EMS could speak with § 87(2)(b) (Board Review 12). In describing the rationale for calling EMS to the scene, Lt. Taybron noted that § 87(2)(b) was intoxicated and acting irrational. He also noted that when § 87(2)(b) had crossed the street earlier to speak with the officers, he did not appear to look when crossing the street. This posed a danger to his safety as there was regular traffic on the block. He did not remember specifically if there was traffic at the time of the incident but noted that there is typically a lot of activity around the club and hotel. There are constantly cabs and rideshare vehicles driving through the area. When asked what other irrational actions § 87(2)(b) took, Lt. Taybron noted that § 87(2)(b) was yelling and "walking back and forth." The only other point he added on § 87(2)(b) behavior was the waving of his hands in PO Lawrence's face. At no point was § 87(2)(b) ever suspected of any illegal or criminal activity. § 87(2)(b) was not required to provide his pedigree information, but if EMS ended up bringing him to the hospital, the officers would ultimately have to get his pedigree information to make sure he had no warrants and ensure that EMS could accurately record their interaction with him.

PO Lawrence did not remember the details of the 911 call and only noted that he might have reviewed the job details before responding to the scene. PO Lawrence noticed § 87(2)(b) unsteady gait from across the street and observed a noticeable smell of alcohol on his breath when he approached him (Board Review 13). These factors, along with the fact that he believed § 87(2)(b) had just come out of the bar, led PO Lawrence to believe § 87(2)(b) was intoxicated and could not care for himself. He further testified that he reached into § 87(2)(b) bag to get his ID so that officers and EMS could properly identify him for any paperwork that was prepared later, such as an AIDED report. Upon review of his BWC video, PO Lawrence acknowledged telling § 87(2)(b) that he was going to the hospital and testified that he only meant that § 87(2)(b) would be checked out by EMS and that his assertion that § 87(2)(b) was going to the hospital was a matter of "verbage."

According to the Department Advocate's Office, no AIDED report was prepared for this incident (Board Review 14).

Patrol Guide Procedure 216-01 defines an AIDED case as, "Any occurrence coming to the attention of a uniformed member of the service which requires that a person, OTHER THAN A PRISONER, receive medical aid or assistance because such person is:

- a. Sick or injured (except vehicle or bicycle collision)
- b. Dead (except vehicle or bicycle collision)
- c. Lost person
- d. Mentally ill
- e. An abandoned, destitute, abused or neglected child
- f. Runaway child
- g. Adult/child requiring care due to arrest, hospitalization, death of parent/guardian/person responsible for care
- h. Homeless individual.

Members of service are required, upon arrival at the scene of an AIDED incident, to “request an ambulance or doctor, if necessary” (Board Review 15).

Patrol Guide Procedure 221-13 defines an emotionally disturbed person as, “A person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others.” The Procedure requires officers to take emotionally disturbed people into protective custody (Board Review 16).

Notwithstanding the anonymous 911 caller’s allegation that § 87(2)(b) was hitting people despite being the only one in the bar, the evidence suggests that officers were not aware of this information. Neither PO Lawrence nor Lt. Taybron were aware of any threats that § 87(2)(b) allegedly made. At most, PO Lawrence might have reviewed the event printout prior to responding, but the event printout makes no mention of the anonymous 911 caller’s allegation. Additionally, the anonymous 911 caller confirmed to the CCRB that he never spoke to any officers when they arrived. As a result, the investigation concluded that PO Lawrence and Lt. Taybron could not possibly have considered this when they interacted with § 87(2)(b).

Furthermore, the investigation did not credit PO Lawrence’s and Lt. Taybron’s testimony that § 87(2)(b) intoxication prevented him from being able to care for himself. Though Lt. Taybron testified that § 87(2)(b) could have been a threat to himself through his intoxication and apparent inability to see the dangers in walking across the street, the investigation did not determine this to be a danger to himself. Though Lt. Taybron noted that this area normally has a lot of vehicle traffic, his BWC suggests that there was little to no vehicle traffic at the time of his conversation with § 87(2)(b) and further shows that there was no response from the officers upon seeing § 87(2)(b) walking in the street. As a result, the investigation did not credit that § 87(2)(b) placed himself in danger in the way he walked across the street. PO Lawrence’s video shows that § 87(2)(b) did not intentionally wave his hands in PO Lawrence’s face as Lt. Taybron suggested. Furthermore, as Lt. Taybron told EMS that § 87(2)(b) was not stumbling and BWC does not show § 87(2)(b) stumble or walk unsteadily, the investigation did not credit PO Lawrence’s testimony that § 87(2)(b) had an unsteady gait. Crucially, the details of the 911 calls did not result in EMS being called to the scene until Lt. Taybron made that decision himself based on the above-referenced observations. While video does show § 87(2)(b) talking loudly at officers and walking around, such actions alone do not rise to the level of danger necessary to classify someone as emotionally disturbed or to detain someone for medical evaluation.

Moreover, both Lt. Taybron and PO Lawrence testified that § 87(2)(b) was never suspected of any illegal activity. Even if § 87(2)(b) had been intoxicated to a degree, mere intoxication in public without a credible safety threat does not warrant a mandatory evaluation by EMS. Though § 87(2)(b) acknowledged being uncooperative with staff and attempting to prevent others from entering, neither of these things creates an immediate danger to himself or anyone else, nor is it indicative of derangement, mental illness, or criminality that would permit officers to detain him. There is nothing about these actions that establishes § 87(2)(b) as anything other than an uncooperative member of the public. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Though PO Lawrence testified that his use of the phrase, “You’re gonna go to the hospital,” was merely a matter of word choice and that he meant to say that § 87(2)(b) was only going to be evaluated by EMS, his exact words were quite different from what he claimed he was trying to say. There is a great deal of difference between language that suggests one is going to be examined by EMS and language that suggests one is being forcibly removed to the hospital. § 87(2)(g)

As noted above, PO Lawrence searched § 87(2)(b) bag to remove his ID in order to make sure the officers had his identifying information in the event he went to the hospital and officers needed to prepare an AIDED report. However, at the time PO Lawrence searched the bag, he did not know if § 87(2)(b) was going to be transported to a hospital. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 17).
- Lt. Taybron has been a member of the NYPD for 13 years and has been a subject in three other CCRB complaints and nine other allegations, none of which were substantiated. § 87(2)(g)
- PO Lawrence has been a member of the NYPD for four years and has been a subject in one other CCRB complaints and one other allegation, which was not substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of September 19, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (Board Review 18).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 5

Investigator: Stephen J. DiFiore
Signature

Inv. Stephen DiFiore
Print Title & Name

March 8, 2023
Date

Squad Leader: Daniel Giansante
Signature

IM Daniel Giansante
Print Title & Name

March 8, 2023
Date

Reviewer: _____
Signature Print Title & Name Date